concurrently with the Miller Act and the Davis-Bacon Act on Federal construction contracts and also apply to most federally assisted construction contracts. The use of the same or identical terms in these statutes which apply concurrently with section 107 of the Act have considerable precedential value in ascertaining the coverage of section 107.

(b) It should be noted that section 1 of the Davis-Bacon Act limits minimum wage protection to laborers and mechanics ''employed directly'' upon the ''site of the work.'' There is no comparable limitation in section 107 of the Act. Section 107 expressly requires as a self-executing condition of each covered contract that no contractor or subcontractor shall require ''any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety'' as these health and safety standards are applied in the rules of the Secretary of Labor.

(c) The term *subcontractor* under section 107 is considered to mean a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. Cf. MacEvoy Co. v. United States, 322 U.S. 102, 108–9 (1944). A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a ''subcontractor'' under this part and section 107 if the work in question involves the performance of construction work and is to be performed: (1) Directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a ''subcontractor'' if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a ''subcontractor.'' Generally, the furnishing of prestressed concrete beams and prestressed structural steel would be considered manufacturing; therefore a supplier of such materials would not be considered a ''subcontractor.'' An example of material supplied ''for the specific project on a customized basis'' as that phrase is used in this section would be ventilating ducts, fabricated in a shop away from the construction job site and specifically cut for the project according to design specifications. On the other hand, if a contractor buys standard size nails from a foundry, the foundry would not be a covered ''subcontractor.'' Ordinarily a contract for the supplying of construction equipment to a contractor would not, in and of itself, be considered a ''subcontractor'' for purposes of this part.

§ 1926.14 Federal contract for "mixed" types of performance.

(a) It is the intent of the Congress to provide safety and health protection of Federal, federally financed, or federally assisted construction. See, for example, H. Report No. 91–241, 91st Cong., first session, p. 1 (1969). Thus, it is clear that when a Federal contract calls for mixed types of performance, such as both manufacturing and construction, section 107 would apply to the construction. By its express terms, section 107 applies to a contract which is ''for construction, alteration, and/or repair.'' Such a contract is not required to be exclusively for such services. The application of the section is not limited to contracts which permit an overall characterization as ''construction contracts.'' The text of section 107 is not so limited.

(b) When the mixed types of performances include both construction and manufacturing, see also § 1926.15(b) concerning the relationship between the Walsh-Healey Public Contracts Act and section 107.

§ 1926.15 Relationship to the Service Contract Act; Walsh-Healey Public Contracts Act.

(a) A contract for ''construction'' is one for nonpersonal service. See, e.g., 41 CFR 1–1.208. Section 2(e) of the Service Contract Act of 1965 requires as a condition of every Federal contract (and bid specification therefor) exceeding $2,500, the ''principal purpose'' of